



**FILED**  
DISTRICT COURT OF GUAM  
MAR 11 2005

MARY L.M. MORAN  
CLERK OF COURT

180

**Office of the Attorney General**

**Douglas B. Moylan**

Attorney General of Guam

Robert M. Weinberg

Stephen A. Cohen

Assistant Attorneys General

**Solicitor's Division**

Guam Judicial Center, Suite 2-200E

120 West O'Brien Drive

Hagåtña, Guam 96910 • USA

(671) 475-3324 • (671) 472-2493 (Fax)

**Attorneys for Respondents**

**IN THE DISTRICT COURT OF GUAM  
HAGÁTÑA, GUAM**

JULIE BABAUTA SANTOS, individually and  
on behalf of all those similarly situated,

Petitioner,

vs.

FELIX P. CAMACHO, Governor of Guam;  
ART ILAGAN, Director of Department of  
Revenue and Taxation; LOURDES M.  
PEREZ, Director of Department of  
Administration; DOUGLAS B. MOYLAN,  
Attorney General of Guam; and  
GOVERNMENT OF GUAM,

Respondents.

Civil Case No. 04-00006

**ATTORNEY GENERAL MOTION TO  
AMEND MARCH 2, 2005 ORDER  
DENYING RECONSIDERATION OF  
FEBRUARY 9, 2005 ORDER TO  
CERTIFY INTERLOCUTORY APPEAL  
TO THE COURT OF APPEALS FOR THE  
NINTH CIRCUIT**

**PURSUANT** to 28 U.S.C. §1292(b) and Rule 5(a)(3) of the Federal Rules of Appellate Procedure, the Attorney General of Guam moves the Court to amend its March 2, 2005 Order Denying Reconsideration of the Court's February 9, 2005 Order to certify an immediate

1 interlocutory appeal by the Attorney General to the United States Court of Appeals for the Ninth  
2 Circuit.

3 The Attorney General respectfully submits that (1) the "order[s] involve[] a controlling  
4 question of law;" (2) there is "substantial ground for difference of opinion;" and (3) "an immediate  
5 appeal from the order may materially advance the ultimate termination of the litigation." *See* 28  
6 U.S.C. § 1292(b).

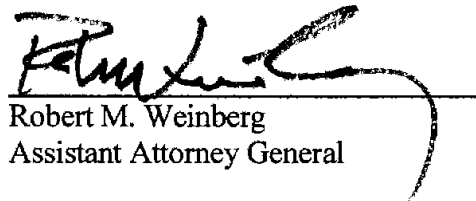
7 Specifically, the Attorney General moves the Court to certify an immediate appeal of the  
8 following question:  
9

10 Whether, in an action filed in the District Court of Guam for  
11 the "for recovery or collection of taxes," 48 U.S.C. § 1421i(h), the  
12 Attorney General's designation as "Chief Legal Officer of the  
13 Government of Guam," 48 U.S.C. § 1421g(d)(1), precludes the  
14 Governor and his representatives from appearing before the Court  
15 through separate counsel without the Attorney General's consent;  
16 or, in the alternative, whether the Organic Act of Guam, specifically  
17 48 U.S.C. § 1421i(c), which provides that "[t]he administration and  
18 enforcement of the Guam Territorial Income Tax shall be performed  
19 by or under the supervision of the Governor...(either directly, or  
20 indirectly by one or more redelegations of authority)...." authorizes  
21 the Governor and his representatives, to appear before this Court  
22 through counsel other than the Attorney General and Chief Legal  
23 Officer of the Government of Guam, *see* 48 U.S.C. § 1421g(d)(1).

18 This Motion is supported by the Memorandum of Points and Authorities filed currently  
19 herewith.

20 Respectfully submitted, this 11<sup>th</sup> day of March, 2005.

21 OFFICE OF THE ATTORNEY GENERAL  
22 Douglas B. Moylan, Attorney General

23   
24 Robert M. Weinberg  
25 Assistant Attorney General

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**CERTIFICATE OF SERVICE**

This is to certify that I have this day served counsel for the opposing party(ies) with a copy of the foregoing by hand delivery, or by first class properly addressed, to:

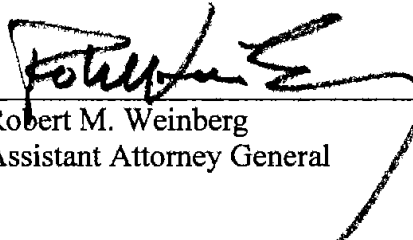
Michael Phillips, Esq.  
Phillips & Bordallo, P.C.  
410 West O'Brien Dr.  
Hagåtña, Guam 96910

Rawlen MT Mantanona, Esq.  
Mantanona Law Office  
GCIC Bldg., Suite 601B  
414 West Soledad Ave.  
Hagåtña, Guam 96910

Rodney J. Jacob, Esq.  
Daniel Benjamin, Esq.  
Calvo and Clark, LLP  
655 South Marine Drive, Suite 202  
Tamuning, Guam 96913

Shannon J. Taitano, Esq.  
Legal Counsel  
Office of the Governor of Guam  
P.O. Box 2950  
Hagåtña, Guam 96932

this 11<sup>th</sup> day of March, 2005.

  
Robert M. Weinberg  
Assistant Attorney General